

Issued: May 24, 2007

FEDERAL MARITIME COMMISSION
PRIVACY ACT OF 1974; SYSTEMS OF RECORDS

AGENCY: Federal Maritime Commission.

ACTION: Proposed Notice of Revised System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Federal Maritime Commission ("Commission" or "FMC") is publishing for comment, a revised system of records that is currently maintained by the Commission. The system of records designated as FMC-7, entitled: "Licensed Ocean Freight Forwarders File-FMC", is being revised to: (1) change its title; (2) clarify the location of the system; (3) clarify the categories of individuals covered by the system; (4) expand the list of categories of records in the system; (5) expand the list of routine uses of records maintained in the system; and (6) expand the list of record source categories.

DATES: Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 10, Microsoft Word 2003, or earlier versions of these applications, no later than June 30, 2007. These revisions will become effective on July 9, 2007, unless the Commission receives comments that would result in a contrary determination.

ADDRESS: Comments may be submitted to:

Bryant L. VanBrakle, Secretary
Federal Maritime Commission
800 N. Capitol Street, NW.
Washington, DC 20573-0001
(202) 523-5725
e-mail: secretary@fmc.gov

FOR FURTHER INFORMATION CONTACT:

Bryant L. VanBrakle, Secretary
Federal Maritime Commission
800 N. Capitol Street, NW.
Washington, DC 20573-0001
(202) 523-5725
e-mail: secretary@fmc.gov

SUPPLEMENTARY INFORMATION:

In accordance with the Privacy Act of 1974, as amended, the FMC proposes to revise the system of records designated as FMC-7 (Licensed Ocean Freight Forwarders File-FMC) by changing the system name to "Licensed Ocean Transportation Intermediaries Files (Form FMC-18)" and by clarifying that the system is located in the Commission's Bureau of Certification and Licensing. The proposed modifications to the system title and location reflect changes due to statutory amendments under the Ocean Shipping Reform Act of 1998 (Pub. L. 105-258), and Commission organizational changes that have taken place since the last update and publication of this system of records on June 24, 1999. 64 FR 33862. The categories of individuals covered by the system have been clarified to better identify the individuals and titles of corporate applicants. The categories of records in the system have been expanded to include the use of Social Security Numbers (or alternatively, the driver's license numbers, passport numbers or alien registration numbers) of the stockholders, officers, and directors of individual ocean transportation intermediaries (OTIs); corporate organizational documents and business licenses; and the inclusion of surety bond information required by statute with respect to licensed OTIs. This additional information is required for the staff to be able to determine whether or not an applicant, or existing licensee, is qualified for licensing or continues to meet

the regulatory requirements of an OTI. Routine uses of the information maintained in the system have been expanded to reflect that the Commission may provide or update information maintained in the U.S. Customs and Border Protection's (CBP) Automated Commercial Environment/International Trade Data System for the purpose of verifying the licensed or registered status of OTIs under the Trade Act of 2002 and for related CBP purposes. Also, a new record source category has been added to show that staff conduct and utilize Internet website searches and reviews of selected commercial and government database searches to access information relevant to processing OTI license applications. This new record source enables the staff to perform a more thorough search of information regarding the qualifications/character of an applicant/licensee.

As required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, and OMB Circular A-130, Appendix I, the Federal Maritime Commission has submitted a report describing the altered system of records covered by this notice to the Office of Management and Budget and to Congress.

FMC-7

SYSTEM NAME:

Licensed Ocean Transportation Intermediaries Files (Form FMC-18).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Bureau of Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573-0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on individuals, including sole proprietorships, members of partnerships, and officers and owners of corporate licensees, managers and owners of limited liability companies, ex-licensees, and applicants for licenses.

CATEGORIES OF RECORDS IN THE SYSTEM:

The System contains ocean transportation intermediaries (OTIs) names, addresses and taxpayer identification numbers (which may be the Social Security Numbers), as well as the names, addresses, and Social Security Numbers (or alternatively, driver's license numbers, passport numbers or alien registration numbers) of the stockholders, officers, and directors of individual OTIs; descriptions of the relationships the OTI may have with other business entities; corporate organizational documents and business licenses; a record of the OTI's past experience in providing or procuring ocean transportation services; surety bond information with respect to licensed OTIs; and any financial information and/or criminal convictions pertinent to the licensing of the OTIs. Under the Shipping Act of 1984, as amended, OTIs may be either an ocean freight forwarder, a non-vessel-operating common carrier or both.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 553; secs. 3, 8, 10, 11, 13, 15, 17 and 19, Shipping Act of 1984 (recodified October 2006 as 46 U.S.C. 305, 40102, 40104, 40501-40503, 40901-40904, 41101-41109, 41301-41302, and 41305).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information contained in these records may be disclosed as follows:

1. By Commission staff for evaluation of applicants for licensing.
2. By Commission staff for monitoring the activities of licensees to ensure they are in compliance with Commission regulations.
3. To refer, where there is an indication of a violation or potential violation of law whether civil, criminal or regulatory in nature, information to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rules, regulations, or orders issued pursuant thereto.

4. To request from a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information, data relevant to a Commission decision concerning the issuance of a license.

5. To provide or disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee previously employed by a licensee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

6. To provide or update information maintained in the U.S. Customs and Border Protection's (CBP) Automated Commercial Environment/International Trade Data System (ACE/ITDS) to verify licensed or registered status of OTIs under Trade Act of 2002 and related CBP requirements, or any other successor agency or organization.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and in a personal computer on-site at Commission headquarters.

RETRIEVABILITY:

Records are indexed by name and license or organization number.

SAFEGUARDS:

Records are maintained in an area of restricted accessibility.

RETENTION AND DISPOSAL:

Applicant and licensee files are kept as long as the application and/or license is active. Files for withdrawn and denied applicants, and revoked licenses remain in the Record Location Center ten years after final action. After ten years the files are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573-0001.

NOTIFICATION PROCEDURE:

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573-0001.

RECORD ACCESS PROCEDURES:

Requests for access to a record should be directed to the Secretary listed at the above address. Request may be in person or by mail and shall meet the requirements set out in section 503.65 of title 46 of the Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

An individual desiring to amend a record shall direct such request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefore, and shall meet the requirements of section 503.66 of title 46 of the Code of Federal Regulations.

RECORD SOURCE CATEGORIES:

1. Information submitted by applicants and licensees.
2. Information submitted by Commission Area Representatives.
3. Information submitted by the general public (e.g., through complaints).
4. Information submitted by surety companies.
5. Information obtained through Internet website searches and selected commercial and government database searches conducted by Bureau of Certification and Licensing staff in processing OTI license applications (e.g., Choicepoint and Dun & Bradstreet).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory materials compiled for law enforcement purposes is exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). Exemption is appropriate to avoid compromise of ongoing investigations, disclosure of the identity of confidential sources and unwarranted invasions of personal privacy of third parties.

By the Commission.



Bryant L. VanBrakle
Secretary